

08 CV 4913

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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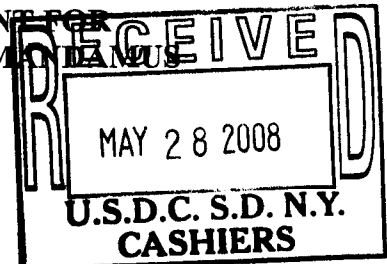
MOHAMED ELARQEM

Plaintiff,

-against-

MICHAEL MUKASEY, Attorney General of
the United States; MICHAEL CHERTOFF,
Secretary, Department of Homeland Security;
EMILIO GONZALEZ, Director, U.S. Citizenship
and Immigration Services;
ANDREA QUARANTILLO,
New York District Director of
U.S. Citizenship and Immigration Services

COMPLAINT FOR
WRIT OF HABEAS CORPUS



Civil Action No.

USCIS No. A48 276 301

Defendants.

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Plaintiff, MOHAMED ELARQEM, through undersigned counsel, alleges as follows:

1. Plaintiff is a native and citizen of Morocco. He has been a lawful permanent resident of the United States since 03 November 2001. At all times hereinafter-mentioned Plaintiff was and still is a resident of Queens County. He currently resides at 49 Crescent St., #H-3-D-3, Astoria, NY 11102. His alien registration number is A48 276 301.

2. Defendant MICHAEL MUKASEY is the Attorney General of the United States who has the authority to naturalize persons as citizens of the United States under 8 U.S.C. § 1421(a); Defendant MICHAEL CHERTOFF is the Secretary, Department of Homeland Security (“DHS”); Defendant EMILIO GONZALEZ is the Director, U.S. Citizenship and Immigration Services (“USCIS”); and Defendant ANDREA QUARANTILLO is the New York District Director of the United States Citizenship and Immigration Services (“USCIS”) with the supervisory authority over all operations of the USCIS within the New York district, including the authority to grant or deny naturalization applications submitted to the USCIS within the New York district. Defendants are sued herein in their official capacities. Defendants are charged by law with the statutory obligation to adjudicate applications for naturalization.

3. The Court has jurisdiction of this action pursuant to 28 U.S.C. 1331, 28 U.S.C. 1361, and 5 U.S.C. 701 et seq., and relief is requested pursuant to said statutes. This is a civil action to redress the deprivation of rights, privileges, and immunities secured to Plaintiff by compelling Defendants to perform a duty Defendants owe to Plaintiff.

4. Venue is proper in this Court under 28 U.S.C. 1391(e) because Defendant ANDREA QUARANTILLO resides in this district.

5. On or about 21 December 2006 Plaintiff filed an application for naturalization (Form N-400) with the Defendants.

6. To date, Plaintiff has not been scheduled for an interview on his application. Plaintiff has made repeated inquiries of Defendants to learn the status of his application and has been informed only that the background investigation of Plaintiff has not yet been completed.

7. Defendants have given no indication when such background investigation will be completed, nor when Plaintiff may be interviewed and his application adjudicated.

8. Defendants, in violation of law and regulations, have willfully and unreasonably refused to adjudicate Plaintiff's "Application for Naturalization" ("Form N-400"), thereby depriving Plaintiff of the benefit of becoming a citizen of the United States.

9. Defendants owe Plaintiff a duty to adjudicate said application, and have unreasonably failed to perform that duty.

10. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiff prays that the Court:

1. Compel Defendants and those acting under them to perform their duty to adjudicate Plaintiff's application; and

2. Grant such other and further relief as this Court deems proper under the circumstances.

Respectfully submitted,

PLUNKETT & DONNARD

Dated: 5/14/08

A handwritten signature in black ink, appearing to read 'Brian Donnard', is written over a horizontal line.

Brian Donnard – BD 7318
Counsel for Plaintiff
401 Broadway, Suite 912
New York, New York 10013
(212) 219-9866

Petitioner: Mohamed ELARQEM

Alien #: A48 276 301

INDEX

- A. Permanent Resident Card; and
- B. Form I-797C dated 9 January 2007, evidencing receipt of Naturalization Application on 21 December 2006.

PERMANENT RESIDENT CARD

NAME ELARQEM, MOHAMED



NIS AF 048-276-301

| Surname | Category | Sex |
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|---|------------------------------------|--|---------------------------------|
| Fingerprint Notification | | | NOTICE DATE January 09, 2007 |
| CASE TYPE N400 Application For Naturalization | | | USCIS A# A 048 276 301 |
| APPLICATION NUMBER ESC*001773546 | RECEIVED DATE December 21, 2006 | PRIORITY DATE December 21, 2006 | PAGE 1 of 1 |
| APPLICANT NAME AND MAILING ADDRESS MOHAMED ELARQEM 25 20 21 STREET APT 3B 30- ⁴⁹ ASTORIA NY 11102 # 718-274-0915 C: 612-548-8003 58 49 Crescent St. # H-3-0-3 | | | |
| To process your application, USCIS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED. | | | |
| APPLICATION SUPPORT CENTER CIS JACKSON HEIGHTS 63-05 ROOSEVELT AVE WOODSIDE NY 11377 | | DATE AND TIME OF APPOINTMENT 01/17/2007 09:00 AM | |
| WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING: 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted. | | | |
| PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED. | | | |
| REQUEST FOR RESCHEDULING Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon USCIS cannot guarantee the day preferred, but will do so to the extent possible. Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to: CIS JACKSON HEIGHTS 63-05 ROOSEVELT AVE WOODSIDE NY 11377 | | | |
| If you have any questions regarding this notice, please call 1-800-375-5283. APPLICATION NUMBER ESC*001773546 | | APPLICANT COPY | |
| WARNING! Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you. | | | |